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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AMERICAN CIVIL RIGHTS FOUNDATION,
a non-profit, public benefit corporation,

Plaintiff,

v.

CITY OF OAKLAND, CALIFORNIA, a political
subdivision of the State of California, and the PORT
OF OAKLAND, a public entity,

Defendants.

No. CV 07-06058 CRB

**DECLARATION OF
SHARON L. BROWNE
IN SUPPORT OF
PLAINTIFF'S MOTION TO
REMAND AND REQUEST
FOR ATTORNEYS' FEES**

Date: January 25, 2008
Time: 10:00 a.m.
Place: Courtroom 8, 19th Floor
Judge: The Hon. Charles R. Breyer

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I, Sharon L. Browne, have personal knowledge of the facts herein and, if called upon to testify as a witness, I could and would testify competently as follows:

1. I am one of the attorneys representing Plaintiff American Civil Rights Foundation in the above-entitled matter.

2. I am an attorney licensed to practice law in all courts of the State of California. I am also admitted into several federal district and appellate courts and the United States Supreme Court.

3. I earned my Juris Doctor degree in 1985 from the University of the Pacific, McGeorge School of Law, in Sacramento, California, where I served on the Honors Board of the National Moot Court and was on the Dean's Honor Roll. I was admitted to the California Bar in 1985.

4. From 1985 to 1991, I was employed as an attorney with Pacific Legal Foundation (PLF), and from 1991 to 1995, I was a senior trial attorney with the public issues law firm of Zumbun, Best & Findley in Sacramento, where I specialized in land use and education law. In 1995, I returned to PLF and have been employed there continuously since that time. At PLF, I serve as Principal Attorney in the Individual Rights practice group. I am also responsible for supervising other attorneys and have supervisory authority over trial court litigation in all of the Foundation's practices.

5. I was an adjunct professor of law at the University of the Pacific, McGeorge School of Law, from 1995 to 2000, teaching Land Use Planning. In 1994, I published an article entitled *Administrative Mandamus as a Prerequisite to Inverse Condemnation: "Healing" California's Confused Takings Law*, 22 Pepp. L. Rev. 99 (1994). I have also published articles in the UCLA Journal of Education, Education Law Reporter, Thrust for Education Leadership, and the California Construction Law Reporter, among other publications. In 2005, I wrote an article for *Engage: the Journal of the Federalist Society's Practice Group*, Vol. 6, Issue 2, Oct. 2005, entitled *Colwell v. United States Department of Health and Human Services: Feds Order Physicians and Health Care Providers to Provide Free Language Translation Services to Limited English Proficient Patients*. In 2007, I co-authored the *Faculty Rights Handbook*, published by the Intercollegiate Studies

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Institute. For the Spring/Summer 2007 publication of the Minority Trial Lawyer Committee of the American Bar Association, I wrote an article on *Meredith v. Jefferson County Bd. of Educ.*, the companion case to the *Parents Involved in Cmty. Schools v. Seattle Sch. Dist. No. 1*, 127 S. Ct. 2738 jointly decided by the United States Supreme Court in June, 2007.

6. A focus of my practice is the vindication of individual rights and the abolition of race and sex discrimination and preferences. Since 1985, I have participated in cases involving the constitutional principle of equal opportunity under the Equal Protection Clause of the United States Constitution and the Civil Rights Act of 1964. Since 1996, I have participated in cases defending, interpreting, and enforcing Article I, section 31, of the California Constitution (Proposition 209), the voter initiative prohibiting the state and its political subdivisions from discriminating against or granting preferences on the basis of race or sex. For example, I was lead counsel representing intervenors Californians Against Discrimination and Preferences, the drafters of Proposition 209, in *Coal. for Econ. Equity v. Wilson*, 946 F. Supp. 1480 (N.D. Cal. 1996), *vacated*, 122 F.3d 692 (9th Cir. 1997), *cert. denied*, 522 U.S. 963 (1997), where the district court in reviewing the constitutionality of Article I, section 31, acknowledged that Proposition 209 removed the ability of government to justify its race- and sex-based programs on the basis of alleged past discrimination. The Ninth Circuit reversed the district court on other grounds, finding that Proposition 209 provided greater protections against discrimination and preferences than the Equal Protection Clause. I was lead attorney for the plaintiffs in the following Proposition 209 cases: *Hi-Voltage Wire Works, Inc. v. City of San Jose*, 24 Cal. 4th 537 (2000), the seminal case in this area where the California Supreme Court, in a unanimous judgment, found San Jose's targeted outreach public contracting program unconstitutional; *Crawford v. Huntington Beach Union High Sch. Dist.*, 98 Cal. App. 4th 1275 (2002), the first case to apply Proposition 209 to K-12 public education and in which the Fourth District Court of Appeal found (1) the school district's intradistrict policy violated Proposition 209 and (2) that a portion of Education Code section 35160.5 authorizing racial balancing violated Proposition 209; *Cowles v. Gilroy Unified Sch. Dist.*, No. 1-01-CV-802958 (Santa Clara County Super. Ct. filed Nov. 9, 2001) (settled before judgement), the first case to seek damages for a school district's use of race in assigning students

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to public schools. I was also lead counsel in *Schram Constr., Inc. v. City & County of S.F.* (consolidated with *Coral Constr., Inc.*), currently before the California Supreme Court, Case No. S152934. This case successfully challenged San Francisco's 20 year old race- and sex-based public contracting ordinance. I was co-counsel in *Connerly v. State Pers. Bd.*, 92 Cal. App. 4th 16 (2001), in which the court found several state laws unconstitutional under both the Equal Protection Clause and Proposition 209. I was the lead attorney in *C & C Constr., Inc. v. Sacramento Mun. Util. Dist.*, 122 Cal. App. 4th 284 (2004), the first case to address Proposition 209's federal funding exception. In 2005, I later settled with the Sacramento Municipal Utility District for the attorneys' fees under Code of Civil Procedure section 1021.5 in the amount of \$635,000. The settlement included fees for my time at the rate of \$400 per hour. I was actively involved in *Parents Involved in Cmty. Schools v. Seattle Sch. Dist. No. 1* and *Meredith v. Jefferson County Bd. of Educ.*, 127 S. Ct. 575 (2006), as an amicus and sat second chair during the December, 2006, oral argument before the United States Supreme Court to assist the attorney arguing on behalf of Crystal Meredith.

7. I have been a panelist at many seminars and conferences to discuss individual rights, including, among others, a conference for the American Bar Association National Convention in August 2007, the Southeastern Association of Law Schools annual meeting in August, 2007, the Appellate Section of the Sacramento Bar Association in July 2007, the National Education Writers Association in May and October, 2007, New York University Law School in April, 2007, the University of Texas School of Law School in Austin in February, 2007, and as a guest lecturer at McGeorge School of Law in April, 2007. I have also published numerous opinion editorials and participated in radio, television, and newspaper interviews and panel discussions, as well as participating in moot courts held in Washington, D.C.

8. In 2007, I was appointed to the California Advisory Board to the United States Commission on Civil Rights and a member of the Executive Committee for the Federalist Society's Civil Rights Practice Group.

9. From this case's inception I was the supervising attorney, working closely with Joshua P. Thompson. As the supervising attorney, I recorded a total of 6.90 recoverable hours in

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researching, drafting, and editing the Motion for Remand (and accompanying documents) in the above-captioned case as of December 13, 2007.

10. Pacific Legal Foundation attorneys claim rates in this case based on two factors. First, they have special expertise litigating matters related to individual rights against government entities. Second, their rates are based on the market rates of attorneys with similar expertise and experience in the Bay Area. The rates claimed for the attorneys who performed work on this case are as follows: Sharon L. Browne at the rate of \$475 an hour and Joshua P. Thompson at \$225 an hour.

11. My time report is compiled from fully documented and detailed time records, receipts, case files, and calendar entries maintained in the regular course of business.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed this 14th day of December, 2007, at Sacramento, California.

/s/ Sharon L. Browne
SHARON L. BROWNE